



**MONTANA**

# *Management View*

*An electronic newsletter for the state government manager  
from the Labor Relations Bureau*

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## ***Revenue shortfall has impact on pay; Trend toward broadbands is expected to continue***

The projected state revenue shortfall and potential budget cuts spell slim odds for state employee pay raises next biennium. In any event, state agencies will spend nearly \$1 billion on employee pay next biennium. State Personnel Division Administrator John McEwen expects to see more state jobs shifting from the 25-grade classified pay plan onto the alternative broadband system.

About 4,600 positions are now on the broadband system. About 5,100 positions remain on the 25-grade classified pay plan. Several agencies applied market-based pay adjustments or competency-based pay components when they converted to broadbands.

The widely publicized revenue shortfall for next biennium is projected to be \$250 million. Probable budget cuts in the next legislative session will challenge the potential for pay raise in all state pay plans. Even in agencies with alternative pay plans, many managers and human resource directors informally predict their budgets won't afford pay raises above and beyond any statewide raise appropriated by the Legislature. (See "*Economic bargaining*" update in this article.)

### **Highlights**

#### **Revenue shortfall:**

**Economic bargaining** **Page 2**

**Health insurance** **Page 2**

**LMTI Update** **Page 3**

**Pondering "Past Practice"** **Page 4**

Despite tight budgets, McEwen says he expects to see a continuing flow of positions from the 25-grade classified system to the broadband system. McEwen notes the broadband system provides greater flexibility for sound pay decisions at the individual agency level, within established parameters. "Managers who had pay questions or ideas

under the 25-grade classified system often perceived our response to be, 'No, you *can't*,'" McEwen says. "In the broadband system, our emphasis is, 'Here's how you *can*.'"

McEwen acknowledges the key question is whether an agency has money, or can secure money through the legislative process, to fund what it needs to accomplish. "The alternative pay plan never promised a new or larger pot of money," he says. "It simply aims to give state agencies more control over their own pay decisions within an established range, and the results appear to be on target."

Several agencies have solved or reduced pay-related recruitment and retention problems through pay actions authorized under the broadband system, which could not have been accommodated by the 25-grade classified system. Some agencies are attaching pay to performance and results-based goals, which also was not feasible under the traditional pay system.

## **Economic bargaining**

The state and major state employee unions (MPEA, MEA-MFT, AFSCME) are scheduled to meet for another bargaining session Nov. 4. The state has not been able to issue a counterproposal to the unions' proposal of 6-percent annual increases in budgeted personal services for annual raises next biennium. The raises proposed by the union would have a general fund cost of about \$51 million, and a cost to all funds of about \$122 million. The state's ability to submit a counterproposal has been complicated by fluctuating projections for the revenue shortfall. A clearer budget picture is expected when the state and unions meet in November.

## **Health insurance**

The benefits plan already faces a shortfall heading into the 2003 calendar year. The plan's advisory council of state employees, retirees, and union representatives authorized changes to the plan for the upcoming year to keep the system solvent amid increasing health care costs. Effective January 2003, the state's contribution to each employee's monthly health insurance premium will rise to \$366 (an increase of \$71 per month over a two-year period). Still, the benefits plan faces a substantial shortfall next year. Changes in deductibles, dependent premiums and coinsurance are necessary for the benefits plan to "break even" by the end of 2003.

The advisory council surveyed plan members on a variety of options. All options contained some component of increased dependent premiums, increased deductibles, and a change to the hospital coinsurance rates. Over 4,200 employees and retirees responded, up from 2,700 for the 2001 survey. Over half selected options to increase deductibles substantially on the traditional and basic plans, increase dependent premiums by approximately \$40 on average, and change hospital coinsurance rates. Changes are also in store for the vision plan.

For additional information on the changes and other benefits information, employees are encouraged to attend and Annual Change Benefits Presentation during October and

November. The deadline for making changes in your 2003 benefits elections is November 8, 2002.

## ***LMTI Update***

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*The Labor-Management Training Initiative (LMTI) is a project between the State of Montana, the Montana Public Employees Association, and MEA-MFT to support effective labor relations through specialized training and skill development.*

### ***Statewide training targets labor-management committees***

Whole labor-management committees (LMCs) throughout state government are learning the basic elements of effective LMCs and interest-based problem solving through a popular two-day workshop sponsored by the LMTI. Under the tutelage of mediators from the Federal Mediation and Conciliation Service, state managers and line workers train together in an interactive setting practicing interest-based problem solving techniques on real-life issues.

Fifteen committees participated in the past three workshops; 15 others plan to attend workshops in Helena November 6-7 and December 4-5. While registration is full for scheduled workshops, the Labor Relations Bureau will book more if other LMCs are interested but could not attend an earlier one.

The LMTI pays the costs of training, hotel accommodations (for those traveling outside the workshop location), lunches, and snacks.

### ***GM's Saturn leads its industry in cooperative relations; state managers and labor leaders learn how***

About 35 state managers and union leaders met in Great Falls September 25 with representatives from GM's Saturn plant to learn about that company's innovative partnership with the United Automobile Workers (UAW). David Quick, Saturn's Union Initiative Team Coordinator, and Corey Greene, a UAW advisor, told Saturn's story.

The Saturn-UAW partnership began in the 1980's after the U.S. auto industry lost its market edge to foreign small-car manufacturers. GM and the UAW recognized a need for a new approach to labor relations and for more effective use of human resources to manufacture small cars in the United States. They formed the Saturn partnership 13 years ago that led to cooperative decisions about philosophy, plant location, product design, assembly, staffing, and a team approach to day-to-day decision making.

Moreover, their lasting partnership demonstrated that quality vehicles could be built in the United States by a represented work force.

State managers, bargaining agents, and bargaining unit representatives were given the opportunity to question Quick and Greene about all aspects of Saturn's operation and partnership in their three-hour presentation sponsored by the LMTI.

## ***More LMTI events...***

### ***Future conferences –***

The LMTI advisory committee is planning two conferences, one for law enforcement and public safety representatives, and one for health care workers. Course content of both conferences will focus on issues unique to those specific fields. More detailed conference information will be reported in the next *Management View*. If you would like more information about the law enforcement and public safety conference plans, you can contact Kevin McRae at 444-3789. Butch Plowman, 444-3885, can provide more information about the health care conference.

### ***Grievance handling –***

The LMTI advisory committee is working with trainers from the Federal Mediation and Conciliation Service to develop a grievance-handling workshop. The goal of this training will be to help first-line supervisors and job stewards understand the difference between contract grievances and gripes and to resolve grievances at their earliest step. The workshop will be offered in various Montana locations in the winter and spring of 2003. Watch for more information in the next issue of *Management View*.

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## ***Pondering "Past Practice"***

***Anyone who's worked for anytime under a collective bargaining agreement knows the contract doesn't always constitute the entirety of the union's and management's agreement. We refer often and sometimes loosely to "past practices," a real yet commonly misunderstood concept of contract interpretation. This article provides insight into arbitrators' views of "past practice."***

When you're faced with weighing the importance of a past practice, remember this: Arbitrators only rely on the parties' *past practice* to give meaning when the contract is unclear, ambiguous, vague or silent. Arbitrators will interpret clear and unambiguous

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language in strict accordance with the terms of the contract. Clear and unambiguous language usually trumps past practice.

Where contract language clearly confers a right, mere nonuse of that right does not mean that the party has abandoned that right. When the contract is ambiguous, the non-exercise of that right is relevant.

Over the years, arbitrators have developed criteria for assessing past practice and its application to the labor-management relationship in interpreting ambiguous contract language:

- **Clarity.** The party asserting the existence of past practice has the burden of proving that the practice was easily discernable.
- **Consistency.** To have weight and affect, the past practice must remain constant, be predictable.
- **Longevity.** A practice is only developed over time. The party asserting a past practice has the burden of proving that it existed long enough to establish a life of its own.
- **Repetition.** Just as "one swallow maketh not summer," one event does not establish a practice.
- **Mutuality.** To be binding, a practice must be have been apparent and acceptable to all parties.

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***Questions, comments or suggestions? Contact the Labor Relations Bureau or visit our website:*** [www.discoveringmontana.com/doa/spd/css](http://www.discoveringmontana.com/doa/spd/css)

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